



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0389]

RIN 1625-AA00

Safety Zone; Nautical City Festival Air Show, Rogers City MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Captain of the Port Sault Sainte Marie zone. This safety zone is intended to restrict vessels from certain portions of water areas within Sector Sault Sainte Marie Captain of the Port zone. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with an air show performance.

DATES: This rule is effective from 1:00 p.m. on August 3, 2012 until 5:00 p.m. on August 5, 2012.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket [USCG-2012-0389]. To view documents in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box, and click

"SEARCH." You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail MST2 Kevin Moe, U.S. Coast Guard, Sector Sault Sainte Marie, telephone 906-253-2429, email at Kevin.D.Moe@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On May 21, 2012, we published an NPRM entitled Safety Zone; Nautical City Festival Air Show, Rogers City MI; in the Federal Register (77 FR 29932). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Due to the timing of the event, waiting 30 days to make this rule

effective would be impracticable.

B. Basis and Purpose

On the weekend of August 3 through 5, 2012, the Nautical City Festival will be celebrating Calcite's 100th Anniversary. As part of that celebration, an air show will be launched to the east of the Rogers City marina. The Captain of the Port Sault Sainte Marie has determined that the air show event poses various hazards to the public such as debris falling into the water and general congestion of the waterway.

C. Discussion of Rule

To safeguard against the dangers posed by the Nautical City Festival Air Show near Rogers City, MI, the Captain of the Port Sault Sainte Marie has determined that a temporary safety zone is necessary. Thus, the Captain of the Port Sault Sainte Marie is establishing a safety zone on Lake Huron to include all waters within a 5000' by 2000' rectangle bounded by a line drawn from 45°25'30.67"N, 083°48'19.54"W then southeast to 45°25'24.85"N, 083°47'09.68"W then southwest to 45°25'05.41"N, 083°47'12.84"W then northwest to 45°25'11.30"N 083°48'22.88"W then back to the point of origin [DATUM: NAD 83].

This safety zone will be effective from 1:00 p.m. on August 3, 2012 until 5:00 p.m. on August 5, 2012. However, it will only be enforced from 1:00 p.m. until 5:00 p.m. each day on

August 3rd, 2012. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Sector Sault Sainte Marie or his on-scene representative. All persons and vessels authorized to enter the safety zone shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under these Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude

that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone will be relatively small and will exist for only a minimal time. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by proper authority.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities; owners and operators of vessels intending to transit the waters near Rogers City, Michigan, between 1:00 p.m. and 5:00 p.m. on August 3 through 5, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the same reasons discussed in the REGULATORY PLANNING AND REVIEW section.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be

received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and

Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction because it involves the establishment of a safety zone. A final environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165 - REGULATED NAVIGATION AREAS AND LIMITED

ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T09-0389 to read as follows:

§ 165.T09-0389 Safety Zone: Nautical City Festival Air Show, Rogers City MI.

(a) Location. The following area is a temporary safety zone: All U.S. navigable waters of Lake Huron inside a 5000' by 2000' rectangle bounded by a line drawn from 45°25'30.67"N, 083°48'19.54"W then southeast to 45°25'24.85"N, 083° 47'09.68"W then southwest to 45°25'05.41"N, 083°47'12.84"W then northwest to 45°25'11.30"N 083°48'22.88"W then back to the point of origin [DATUM: NAD 83].

(b) Effective and Enforcement period. This regulation is effective from 1:00 p.m. on August 3, 2012 until 5:00 p.m. on August 5, 2012. It will only be enforced, however, from 1:00 p.m. until 5:00 p.m. each day from August 3th until August 5th.

(1) The Captain of the Port, Sector Sault Sainte Marie may suspend at any time the enforcement of the safety zone established under this section.

(2) The Captain of the Port, Sector Sault Sainte Marie, will notify the public of the enforcement and suspension of enforcement of the safety zone established by this section via any means that will provide as much notice as possible to the public. These means might include some or all of those listed in 33 CFR 165.7(a). The primary method of notification, however, will be through Broadcast Notice to Mariners and local Notice to Mariners.

(c) Definitions. The following definitions apply to this section:

(1) Designated representative means any Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port Sault Sainte Marie to monitor these safety zones, permit entry into these safety zones, give legally enforceable orders to persons or vessels within these safety zones, or take other actions authorized by the Captain of the Port.

(2) Public vessel means a vessel owned, chartered, or operated by the United States or by a State or political subdivision thereof.

(d) Regulations. (1) The general regulations in 33 CFR 165.23 apply.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port Sault Sainte Marie or a designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3) When the safety zone established by this section is being enforced, all vessels must obtain permission from the Captain of the Port Sault Sainte Marie or his or her designated representative to enter, move within, or exit that safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or

directions of the Captain of the Port or his or her designated representative. While within the safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

(e) Exemption. Public vessels, as defined in paragraph (c) of this section, are exempt from the requirements in this section.

Dated: June 21, 2012

J. C. MCGUINESS
Captain, U.S. Coast Guard
Captain of the Port Sault Sainte Marie

[FR Doc. 2012-16897 Filed 07/10/2012 at 8:45 am; Publication Date: 07/11/2012]